

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

FRANCISCO SANTOS,

Plaintiff,

-against-

9:19-CV-1610 (LEK/TWD)

C.O. B. SCHROEDER, *et al.*,

Defendants.

DECISION AND ORDER

I. INTRODUCTION

Pro se plaintiff Francisco Santos, an inmate in the custody of the New York State Department of Corrections and Community Supervision (“DOCCS”), commenced this action pursuant to 42 U.S.C. § 1983. Dkt. No. 1 (“Complaint”). Plaintiff asserts claims arising out of his incarceration at Auburn Correctional Facility (“Auburn”) against Correction Officer B. Schroeder, Inmate Grievance Program Supervisor Cheryl Parmiter, and various John Doe defendants. *Id.* The Court reviewed the sufficiency of Plaintiff’s Complaint pursuant to 28 U.S.C. §§ 1915(A) and 1915(e)(2)(B) and ordered that Plaintiff’s retaliation claims required a response from Defendants. Dkt. No. 5. In lieu of answering, Schroeder and Parmiter moved for summary judgment on exhaustion grounds. Dkt. No. 14 (“Motion for Summary Judgment”).

On February 1, 2021, the Honorable Thérèse Wiley Dancks, U.S. Magistrate Judge, recommended that Defendants’ Motion for Summary Judgment be denied. *See* Dkt. No. 28 (“Report-Recommendation”). For the reasons that follow, the Court adopts the Report-Recommendation in its entirety.

II. BACKGROUND

Plaintiff's factual allegations are detailed in the Report-Recommendation, familiarity with which is assumed. See R. & R. at 2–6.

III. STANDARD OF REVIEW

Within fourteen days after a party has been served with a copy of a magistrate judge's report-recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b); L.R. 72.1(c). If objections are timely filed, a court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b).

However, if no objections are made, or if an objection is general, conclusory, perfunctory, or a mere reiteration of an argument made to the magistrate judge, a district court need review that aspect of a report-recommendation only for clear error. Barnes v. Prack, No. 11-CV-857, 2013 WL 1121353, at *1 (N.D.N.Y. Mar. 18, 2013); Farid v. Bouey, 554 F. Supp. 2d 301, 306–07 (N.D.N.Y. 2008), abrogated on other grounds by Widomski v. State Univ. of N.Y. at Orange, 748 F.3d 471 (2d Cir. 2014); see also Machicote v. Ercole, No. 06-CV-13320, 2011 WL 3809920, at *2 (S.D.N.Y. Aug. 25, 2011) ("[E]ven a pro se party's objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate's proposal . . ."). "A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." § 636(b).

IV. DISCUSSION

Defendants did not file objections to the Report-Recommendation. See Docket.

Consequently, the Court reviews the Report-Recommendation for clear error and finds none. Therefore, the Court adopts the Report-Recommendation in its entirety.

V. CONCLUSION

Accordingly, it is hereby:

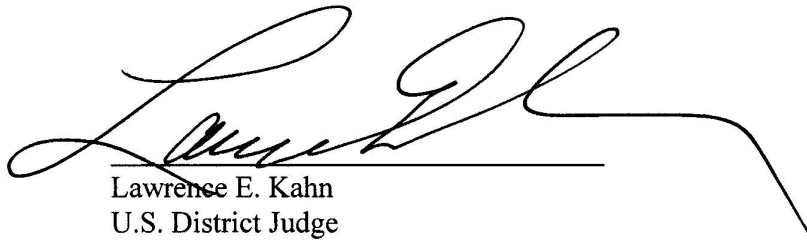
ORDERED, that the Report-Recommendation (Dkt. No. 28) is **APPROVED and ADOPTED** in its entirety; and it is further

ORDERED, that Defendants' Motion for Summary Judgment (Dkt. No. 14) is **DENIED**; and it is further

ORDERED, that the Clerk serve a copy of this Decision and Order on all parties in accordance with the Local Rules.

IT IS SO ORDERED.

DATED: March 11, 2021
Albany, New York



Lawrence E. Kahn
U.S. District Judge